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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/388,069	09/01/1999	STEPHEN LEROY POLLARD		3357

7590 02/04/2003  
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EXAMINER

DANG, HUNG XUAN

ART UNIT	PAPER NUMBER
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2873

DATE MAILED: 02/04/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

**Notice of Abandonment**

Application No.

09388069

Examiner

Georgia Y Epps

Applicant(s)

POLLARD

Art Unit

2873

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address--

This application is abandoned in view of:

1. ☒ Applicant's failure to timely file a proper reply to the Office letter mailed on 10 September 2001.
  - (a) ☐ A reply was received on \_\_\_\_\_ (with a Certificate of Mailing or Transmission dated \_\_\_\_\_), which is after the expiration of the period for reply (including a total extension of time of \_\_\_\_\_ month(s)) which expired on \_\_\_\_\_.
  - (b) ☐ A proposed reply was received on \_\_\_\_\_, but it does not constitute a proper reply under 37 CFR 1.113 (a) to the final rejection.  
(A proper reply under 37 CFR 1.113 to a final rejection consists only of: (1) a timely filed amendment which places the application in condition for allowance; (2) a timely filed Notice of Appeal (with appeal fee); or (3) a timely filed Request for Continued Examination (RCE) in compliance with 37 CFR 1.114).
  - (c) ☐ A reply was received on \_\_\_\_\_ but it does not constitute a proper reply, or a bona fide attempt at a proper reply, to the non-final rejection. See 37 CFR 1.85(a) and 1.111. (See explanation in box 7 below).
  - (d) ☐ No reply has been received.
2. ☐ Applicant's failure to timely pay the required issue fee and publication fee, if applicable, within the statutory period of three months from the mailing date of the Notice of Allowance (PTOL-85).
  - (a) ☐ The issue fee and publication fee, if applicable, was received on \_\_\_\_\_ (with a Certificate of Mailing or Transmission dated \_\_\_\_\_), which is after the expiration of the statutory period for payment of the issue fee (and publication fee) set in the Notice of Allowance (PTOL-85).
  - (b) ☐ The submitted fee of \$\_\_\_\_\_ is insufficient. A balance of \$\_\_\_\_\_ is due.  
The issue fee required by 37 CFR 1.18 is \$\_\_\_\_\_. The publication fee, if required by 37 CFR 1.18(d), is \$\_\_\_\_\_.
  - (c) ☐ The issue fee and publication fee, if applicable, has not been received.
3. ☐ Applicant's failure to timely file corrected drawings as required by, and within the three-month period set in, the Notice of Allowability (PTO-37).
  - (a) ☐ Proposed corrected drawings were received on \_\_\_\_\_ (with a Certificate of Mailing or Transmission dated \_\_\_\_\_), which is after the expiration of the period for reply.
  - (b) ☐ No corrected drawings have been received.
4. ☐ The letter of express abandonment which is signed by the attorney or agent of record, the assignee of the entire interest, or all of the applicants.
5. ☐ The letter of express abandonment which is signed by an attorney or agent (acting in a representative capacity under 37 CFR 1.34(a)) upon the filing of a continuing application.
6. ☐ The decision by the Board of Patent Appeals and Interference rendered on \_\_\_\_\_ and because the period for seeking court review of the decision has expired and there are no allowed claims.
7. ☐ The reason(s) below:

Petitions to revive under 37 CFR 1.137(a) or (b), or requests to withdraw the holding of abandonment under 37 CFR 1.181, should be promptly filed to minimize any negative effects on patent term.

# Wynette Stapor

United States Patent and Trademark Office

Customer Service Center, Technology Center 2800

Phone 703/306-3329

Fax 703/306-5515

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Date: 02/04/03

Total # of pages-including cover sheet:

To: Stephen Pollard

Recipient Fax

From: Wynette Stapor /Georgia Epps

Per our conversation of today- the following papers are being faxed to you in reference to S/N 09-388069. These papers are only PROPOSALS- used to assist you in the process of preparing a proper application. The papers are as follows: A1) Proposal For Correction of Specification -A2) Proposed Example of Claims-A3) Proposed Example of an Abstract-A4) Drawings/Figures Supplied by Applicant-B1) MPEP Procedures for Unintentional Abandonment 1.37b-B2) Petition Form for Unintentional Abandonment B3) Fee Form - see 1.17(m) Small Entity Fee- C1) Notice of Abandonment letter dated 2-04-03. These are only PROPOSALS- If you have any questions in regarding the Petition process-please call their Customer Service Center at 703-305-9282. Please call me if I can be of anymore assistance. My number is 703-306-5720.

Thanks

Wynette Stapor

Customer Service Office

TC 2800

*Scanned & faxed  
2-4-03*

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**FAX\*FAX\*FAX\*FAX\*FAX\*FAX\*FAX\*FAX\*FAX\*FAX**

**Application NO. 09/388,069**  
**Art Unit 2873**

The response filed by Federal Express was received 10/18/02. The response will be made of record in the file. It does not address what is needed to provide a properly written and submitted Specification, Abstract, and Claims for examination.

I am enclosing a copy of the Substitute Specification that was filed on 2/22/01. I have crossed through parts that were not needed or were incorrectly written. Additional changes are needed to the Specification. I have also enclosed the Drawing Figures that are of record in this application that correspond with the Brief Description of Drawings, filed on 2/22/01. More information is needed in the Detail Description of the Invention. You can keep the information that you have provided under this section, but you need to provide a more detail description of the Drawing Figures and explain how the Figures fit together to make the comfort visor, which you have attempted to do in the Federal Express response filed.

I am setting forth a **PROPOSED Example Detail Description of the of the Drawing.** You know your invention; therefore, you should provide the corrections needed. I am also including the information you provided in the Federal Express response as part of the description.

### **Detail Description of the Drawing**

Figures 1, 2, and 3 are top, front, and side views of the headband. In these figures (1) is the head, (2) the fastener, and (3) is the two tabs on side of the visor. Figures 4 and 5 are front and side views of the visors. These figures comprise the elongated adjusting ports (4) and the elongated bracket (5). Figures 6 and 7 are front views of the alignment adjuster. These figures comprise an adjustment bar tool (9) and rotating clamps (6) and (6A). Figures 8 and 9 are top and side views of the beveled adjuster, where (8) is a lens.

The Comfort Optics Visor is worn with a vertical support band running over the top of the head (1). A supporting band around the head incorporates the elongated brackets (5) and the fastener (2), which fix the visor in place. The

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visor moves at a fulcrum over each ear. Two tabs on each side (3) near the fulcrum lock the position of the visor so that the same fit can be achieved each time the visor is worn. The optics mount to the front of the visor in elongated adjusting ports (4). Two tools are used to align the visor and the optics (6&7). When the visor is converted for reading, two plastic wedges are placed at each monocular to converge the lenses (8).

I have also provided **PROPOSED Example CLAIMS**. Claims should be provided on a separate sheet of paper. I have provided a proper format of claims. You should use this format when writing your claims, since you know what your invention is.

I have re-written you **ABSTRACT** on a separate sheet of paper. The Abstract should be provided on a separate sheet of paper. It should be one paragraph and no more than 150 words.

You now need to submit a Substitute Specification, Abstract and properly written claims. In the comments section of your response you need to indicate that **no new matter has been provided in the Substitute Specification**.

Since the claims were not properly submitted previously (each claim should be one sentence), you should request that the previous claims submitted be cancelled and enter your new claims that follow the format that I have given you. You need to start with the next claim number after the claim that has been cancelled. For example,

Please delete claims 1-5 and add the following new claims

6. (new) The comfort optics visor comprising ...

I have provided you with the proper format in order to file a proper Specification, Abstract, and Claims at the USPTO. Once this has been filed, your application will be reviewed by a patent examiner using the proper patent examining

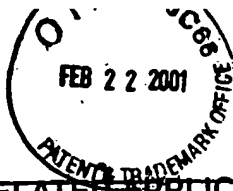
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**procedures. The examples of the information that I have provided you does in no way indicate that this information is allowable for you invention because the examination of this application has not been concluded.**

Any inquiry concerning this communication should be directed to Georgia Y. Epps at (703) 308-4883.

# TITLE OF THE INVENTION:

Comfort Optics Visor



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## ~~CROSS REFERENCES TO RELATED APPLICATIONS~~

~~There are no cross references to related applications.~~

## ~~STATEMENT REGARDING FEDERALLY SPONSORED RESEARCH AND DEVELOPMENT~~

~~There was no Federally-Sponsored Research and Development connected to this invention.~~

## ~~REFERENCE TO A MICROFICHE APPENDIX~~

~~This invention has no microfiche appendix.~~

## BACKGROUND OF THE INVENTION

### Field of the Invention

### Description of the Related Art

The only related art is Patent No. 5,920,371. Some of the pieces of the art work are similar in that both inventions use a visor to hold them on the person's head (this visor is not the subject of either patent as there are many brands of visors available and neither that inventor or I am claiming to have developed the visor. The part of my device that is unique and therefore patentable is the alignment device which is very different from the alignment device shown is Patent no. 5,920,371. My device is designed to allow the patient to adjust the alignment himself/herself with no help from a caretaker or doctor. The alignment device shown in the prior art could not be adjusted by the patient. My invention features the elongated ports in the visor which work with my unique alignment fixture, a clamp, to allow the patient to adjust the vision simply by applying pressure to the expansion loop. The prior art has a very different alignment fixture and this is the key to the difference in the two inventions.

### BRIEF SUMMARY OF THE INVENTION

When pressure is applied to the expansion loop, the headband expands. The pressure may be applied by hand or a surgeon's arm or by another person (a caretaker for a disabled person, e.g.). When the pressure is released, the headband contracts and the (2) two bands on either side of the head align the visor optically the same way every time. No further adjustment need be made for perfect optical alignment.

My application for a patent concerns the expansion loop, which is totally new. Headbands and visors have been made for a long time. Many brands already exist and my invention does not affect those already existing patents. I have developed a unique concept for an expansion loop that provides optical alignment every time pressure on it is removed and replaced.

### BRIEF DESCRIPTION OF THE SEVERAL VIEWS OF THE DRAWING

The following describes the drawings of my invention fully:

Figure 1: the top view of the headband shows an expansion loop (right on top of band). The fastener that allows adjustment and secures the visor to the headband and the expansion loop. This part is adjustable so it will fit the patient's requirements.

Figure 2: the front view of the headband shows four attached bands that achieve perfect optical alignment. (fasteners in front)

Figure 3: the side view of the headband shows a fastener that allows adjustment and secures the visor to the headband, the attached bands, and the expansion loop.

Figure 4: the front view of the visor shows the visor's elongated mounting ports to accommodate either fixed, adjustable mechanical or electronic monoculars. The elongated parts allow for adjustment to the patient's center distance.

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Figure 5: the side view of the visor shows an elongated bracket in the front. This bracket is elongated to allow for proper adjustment alleviation of any cantilever effect from heavy monoculars. It maintains stability.

Figure 6: the front view of the alignment adjuster shows a fixture that is temporarily attached to the visor, allowing the patient to independently adjust each monocular to achieve the maximum vision the patient can obtain. It is used to rotate the monocular to achieve superimposure using roof-top prismatic monocular. When alignment is achieved, the fixture is removed.

Figure 7: the front view of the alignment clamp shows a clamp that is attached to the monocular, while being held in place by Figure 6, to maintain alignment. If patient's center vision is lost, the peripheral vision can be superimposed over the primary vision.

Figure 8: the top view of the beveled adjuster shows a bevel that converts a view visor into a reading visor. The splines maintain the correct angularity for reading.

Figure 9: the side view of the beveled adjuster.

This is a utility claim, not a design claim. Everything herein has been reduced to practice.

## DETAILED DESCRIPTION OF THE INVENTION

The Comfort Optic Visor is a novel unique optical device, never offered before. Its novel and unique features are as follows:

1. The patient is not strapped with tunnel vision. They have their normal vision and to get assistance by the additional power optics, all they have to do is tip their head 15 degrees and they have the best optical assistance their body possesses.
2. To remove and replace the comfort optic visor and achieve perfect vision every time, all the patient has to do is apply pressure to the expansion loop on the head band. When the pressure is removed, the visor is in perfect optical alignment. When a surgeon needs additional optical assistance, he can align the comfort optical vision with his arm and does not have to worry about contamination.
3. The elongated ports in the visor, with the aid of the alignment fixture, allows the patient to achieve perfect optical balance and not have to accept what someone guesses is correct for the patient.
4. The Comfort Optic Visor is the only optical device ever offered where the patient does all the selection, adjustment and alignment. Nobody can do it better than the patient.
5. The Comfort Optic Visor is fitted with various power monoculars. They are extra close focus to infinity with roof-top prism. If the patient has no primary vision, only preferred vision, no matter how narrow the threshold of sight may be, the patient can locate this threshold and prismatically take the preferential vision and superimpose this vision to a primary vision. No other device can do this in a way that is achieved by the patient himself/herself.
6. The Comfort Optic Visor is the only device that allows the patient to adjust the pupil to the primary optic. This is very critical for some patients. Without this feature some patients would never be able to see.

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## CLAIM OR CLAIMS

These are the claims for my invention.

1. The expansion loop on the headband, when pressure is applied to it, causes the headband to expand and the ear on the sideband achieves optical alignment when the pressure is relieved from the expansion loop.
2. The elongated ports in the visor, with the use of the alignment fixture, allow the patient to achieve perfect center visual alignment while the monoculars are being held in the correct position by the alignment fixture and the rotating fixture allows the patient to achieve perfect prismatic alignment.

## ABSTRACT OF THE DISCLOSURE

The Comfort Optic Visor is a device used to correct vision in individuals with only peripheral vision. It consists of a headband and monoculars which can be adjusted by the patient using the unique clamp to align the prism. The clamp can be rotated easily and will then cause alignment from peripheral vision to primary vision.

## DRAWINGS

The drawings are shown on the following nine pages.



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Proposed  
CLAIMS

WHAT IS CLAIMED IS:

1. The comfort optics visor comprising a vertical support band running over the top of the head with adjustable loops, when pressure is applied to the band, the band will expand and when pressure is removed from the band, the band will return to its original position.
2. The comfort optics visor of claim 1, wherein a fastener secures the visor position to the vertical support band and maintains optical alignment.
3. The comfort optics visor of claim 2, wherein four tabs, two each side – front and back of each fulcrum, are mounted on either side of the vertical support band, the tabs act as stops so that when adjustment of the loop is executed, the visor maintains the same fit and position each time it is removed and replaced.
4. The comfort optics visor of claim 3, wherein elongated adjusting ports are used to achieve correct vertical alignment.
5. The comfort optics visor of claim 4, wherein an elongated bracket secures the visor to the headband, which allows the visor to be adjusted to the patient's settings.
6. The comfort optics visor of claim 5, wherein an adjusting bar tool is placed temporarily on the visor by the technician so that monoculars can be moved horizontally within the elongated ports, to establish the correct vertical position of each monocular.
7. The comfort optics visor of claim 6, wherein the adjusting bar tool is a rotating clamp used by the technician so that each monocular can be adjusted for horizontal optical alignment.

8. The comfort optics visor of claim 7, wherein the visor is converted from a viewing visor to a reading visor by using four aligning wedges, an aligning wedge is used at both sides of each monocular to obtain reading vision by allowing the monoculars to converge.

Proposed

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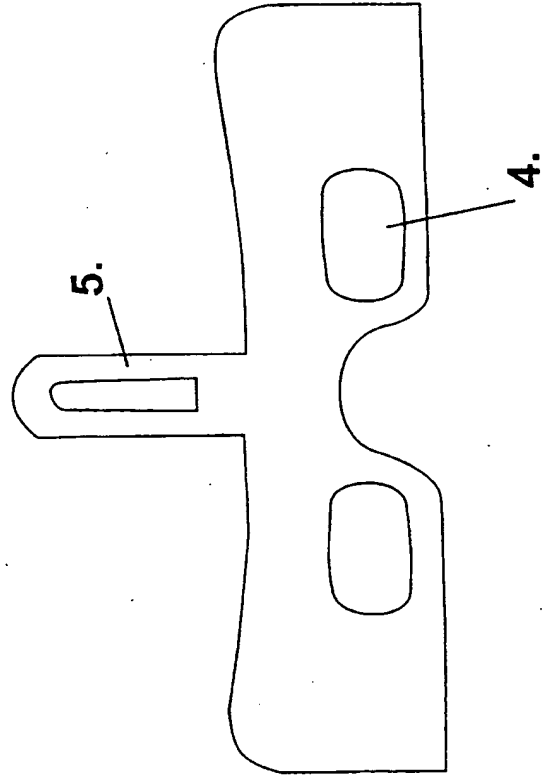
## **Comfort Optics Visor**

### **ABSTRACT OF THE DISCLOSURE**

The Comfort Optics Visor is a device used to correct vision in individuals with only peripheral vision. It consists of a headband and monoculars that can be adjusted by the patient using the unique clamp to align the prism. The clamp can be rotated easily and will then cause alignment from peripheral vision to primary vision.

**Figure 4**

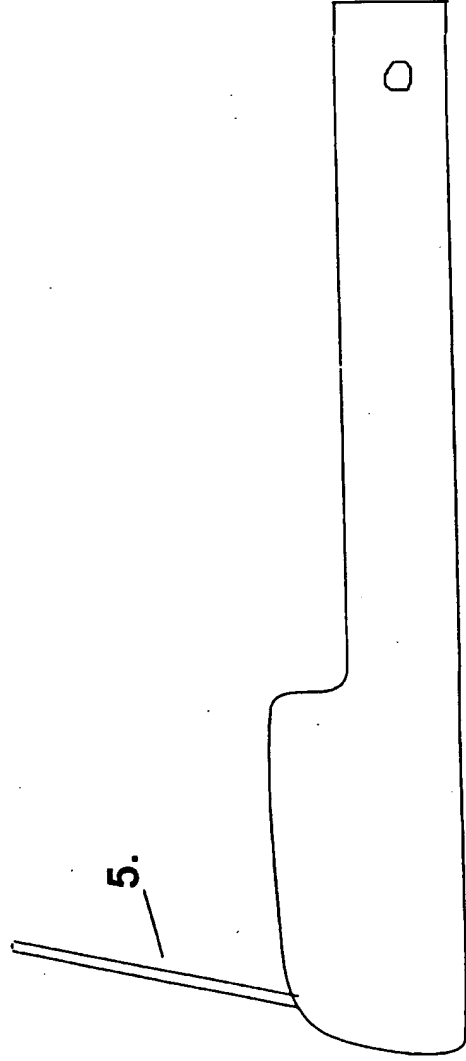
Front View of Visor



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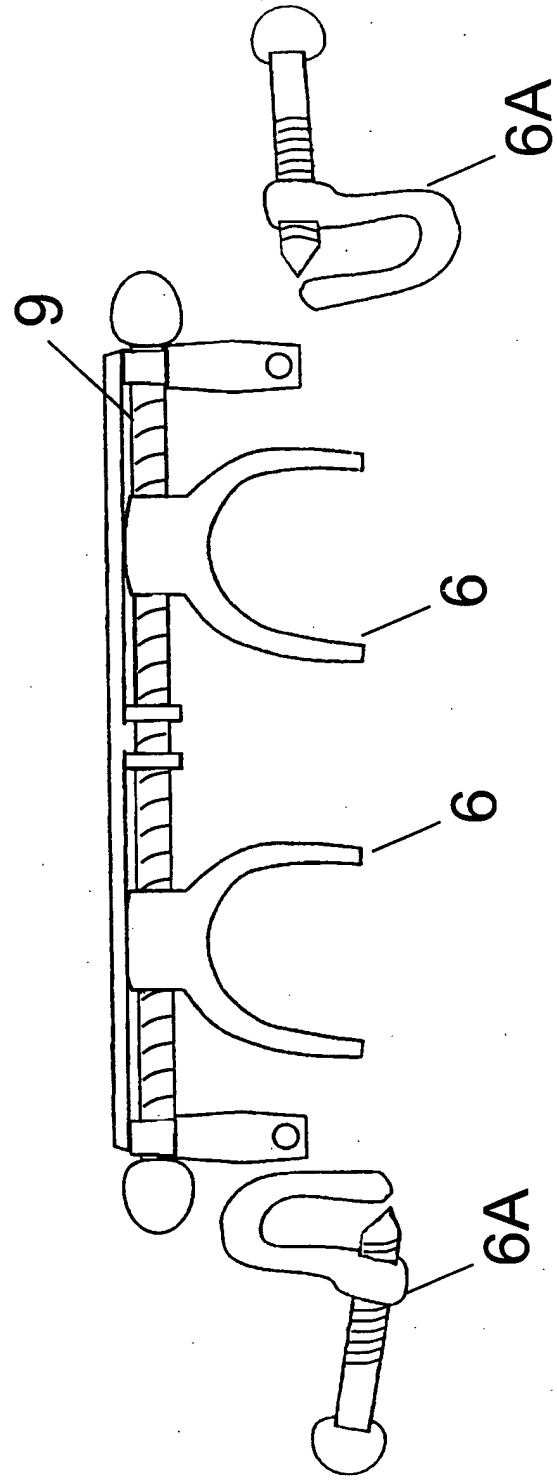
**Figure 5**

Side View of Visor

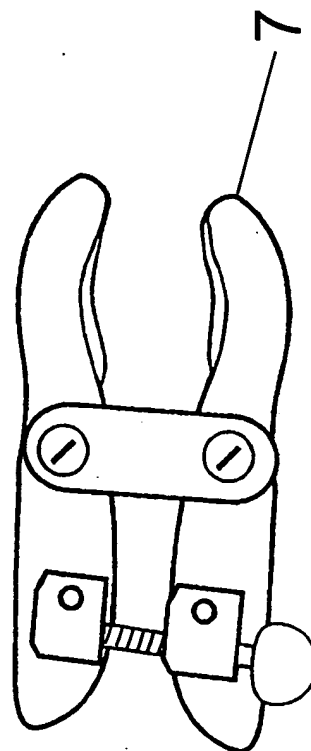


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**Figure 6**  
**Front View of Alignment Adjuster**



**Figure 7**  
**Front View of Alignment Clamp**





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**Figure 8**  
**Top View of Beveled Adjuster**

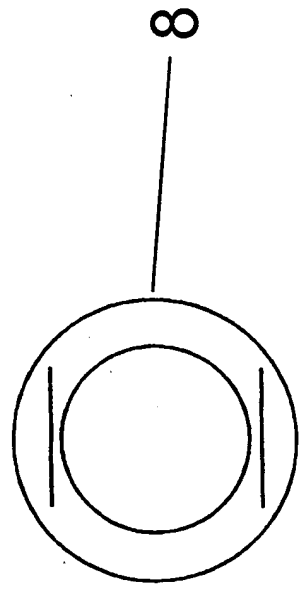


Figure 9

Side View of Beveled Adjuster



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authority.

In any case in which the authority to decide the petition has been delegated as indicated in MPEP § 1002.02 (b), (f), (g), (j) and (o), a denial of a petition may be viewed as a final agency decision. A dismissal of a petition, a denial of a petition without prejudice, and other interlocutory orders are not final agency decisions.

In accordance with 37 CFR 1.181(g), the authority to decide petitions to the Commissioner, not otherwise delegated, has been delegated to various Office officials. Generally, these officials will decide petitions as specified in the following sections for the effective operation of the Office. Also listed are certain petitions which are not, strictly speaking, to the Commissioner but have been committed by statute or rule to the designated officials.

The delegation of specific petitions and/or matters identified in the sections below to personnel within the Technology Centers is at the discretion of the Technology Center Director. Any petition and/or matter so delegated may be decided by the Technology Center Director.

Authority not herein delegated has been reserved to the Commissioner and may be delegated to appropriate officials on an ad hoc basis.

#### **1002.02(b) Petitions and Requests Decided by the Office of the Deputy Commissioner for Patent Examination Policy**

All petitions decided by the Office of the Deputy Commissioner for Patent Examination Policy other than by the PCT Legal Administration (see MPEP § 1002.02(p)), and inquiries relating thereto, should be directed to "Box DAC, Assistant Commissioner for Patents, Washington, DC 20231," except as otherwise provided. For example, applications for patent term extension under 35 U.S.C. 156 should be directed to Box Patent Ext.

1. Petitions to revive an abandoned national, nonprovisional or provisional patent application, 37 CFR 1.137 (both unavoidable delay and unintentional delay), MPEP § 711.03(c).
2. Petitions under 37 CFR 1.183 for waiver or suspension of rules not otherwise provided for.
3. Petitions to invoke the supervisory authority of the Commissioner under 37 CFR 1.181 in matters not otherwise provided for.
4. For utility and plant applications filed on or after November 29, 2000, petitions for an unintentionally delayed foreign priority claim, 37 CFR 1.55(c), MPEP § 201.14(a).
5. For utility and plant applications filed on or after November 29, 2000, petitions for an unintentionally delayed domestic priority claim, 37 CFR 1.78(a)(3) and (a)(6), MPEP § 201.11.
6. Petitions for deferment of issuance of patents, 37 CFR 1.314, MPEP § 1306.01.
7. Petitions for express abandonment of patent applications after payment of the issue fee, MPEP § 711.01 and MPEP § 1308.
8. Petitions relating to assignments and issuance of patents not otherwise provided for.
9. Petitions relating to public use proceedings, 37 CFR 1.292.
10. Petitions for the withdrawal of attorney under 37 CFR 1.36 in patent applications involved in proceedings before the Office of the Deputy Commissioner for Patent Examination Policy.
11. Petitions under 37 CFR 1.182 in matters not otherwise provided for.
12. Requests by the examiner to the Board of Patent Appeals and Interferences for reconsideration of a decision, MPEP § 1214.04.
13. Petitions to review refusal to accept and record maintenance fee payment filed prior to the expiration of a patent, 37 CFR 1.377, MPEP § 2580.

reply is required in less than six months, a maximum period of six months is allowed.

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[47 FR 41276, Sept. 17, 1982, effective Oct. 1, 1982; revised, 62 FR 53131, Oct. 10, 1997, effective Dec. 1, 1997]

**§ 1.135 Abandonment for failure to reply within time period.**

- (a) If an applicant of a patent application fails to reply within the time period provided under § 1.134 and § 1.136, the application will become abandoned unless an Office action indicates otherwise.
- (b) Prosecution of an application to save it from abandonment pursuant to paragraph (a) of this section must include such complete and proper reply as the condition of the application may require. The admission of, or refusal to admit, any amendment after final rejection or any amendment not responsive to the last action, or any related proceedings, will not operate to save the application from abandonment.
- (c) When reply by the applicant is a *bona fide* attempt to advance the application to final action, and is substantially a complete reply to the non-final Office action, but consideration of some matter or compliance with some requirement has been inadvertently omitted, applicant may be given a new time period for reply under § 1.134 to supply the omission.

[Paras. (a), (b), and (c), 47 FR 41276, Sept. 17, 1982, effective Oct. 1, 1982; para. (d) deleted, 49 FR 555, Jan. 4, 1984, effective Apr. 1, 1984; revised, 62 FR 53131, Oct. 10, 1997, effective Dec. 1, 1997]

**§ 1.136 Extensions of time.**

- (a)
  - (1) If an applicant is required to reply within a nonstatutory or shortened statutory time period, applicant may extend the time period for reply up to the earlier of the expiration of any maximum period set by statute or five months after the time period set for reply, if a petition for an extension of time and the fee set in § 1.17(a) are filed, unless:
    - (i) Applicant is notified otherwise in an Office action;
    - (ii) The reply is a reply brief submitted pursuant to § 1.193(b);
    - (iii) The reply is a request for an oral hearing submitted pursuant to § 1.194(b);
    - (iv) The reply is to a decision by the Board of Patent Appeals and Interferences pursuant to § 1.196, § 1.197 or § 1.304; or
    - (v) The application is involved in an interference declared pursuant to § 1.611.
  - (2) The date on which the petition and the fee have been filed is the date for purposes of determining the period of extension and the corresponding amount of the fee. The expiration of the time period is determined by the amount of the fee paid. A reply must be filed prior to the expiration of the period of extension to avoid abandonment of the application (§ 1.135), but in no situation may an applicant reply later than the maximum time period set by statute, or be granted an extension of time under paragraph (b) of this section when the provisions of this paragraph are available. See § 1.136(b) for extensions of time relating to proceedings pursuant to §§ 1.193(b), 1.194, 1.196 or 1.197; § 1.304 for extensions of time to appeal to the U.S. Court of Appeals for the Federal Circuit or to commence a civil action; § 1.550(c) for extensions of time in *ex parte* reexamination proceedings, § 1.956 for

extensions of time in *inter partes* reexamination proceedings; and § 1.645 for extensions of time in interference proceedings.

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- (3) A written request may be submitted in an application that is an authorization to treat any concurrent or future reply, requiring a petition for an extension of time under this paragraph for its timely submission, as incorporating a petition for extension of time for the appropriate length of time. An authorization to charge all required fees, fees under § 1.17, or all required extension of time fees will be treated as a constructive petition for an extension of time in any concurrent or future reply requiring a petition for an extension of time under this paragraph for its timely submission. Submission of the fee set forth in § 1.17(a) will also be treated as a constructive petition for an extension of time in any concurrent reply requiring a petition for an extension of time under this paragraph for its timely submission.
- (b) When a reply cannot be filed within the time period set for such reply and the provisions of paragraph (a) of this section are not available, the period for reply will be extended only for sufficient cause and for a reasonable time specified. Any request for an extension of time under this paragraph must be filed on or before the day on which such reply is due, but the mere filing of such a request will not affect any extension under this paragraph. In no situation can any extension carry the date on which reply is due beyond the maximum time period set by statute. See § 1.304 for extensions of time to appeal to the U.S. Court of Appeals for the Federal Circuit or to commence a civil action; § 1.645 for extensions of time in interference proceedings; § 1.550(c) for extensions of time in *ex parte* reexamination proceedings; and § 1.956 for extensions of time in *inter partes* reexamination proceedings.
- (c) If an applicant is notified in a "Notice of Allowability" that an application is otherwise in condition for allowance, the following time periods are not extendable if set in the "Notice of Allowability" or in an Office action having a mail date on or after the mail date of the "Notice of Allowability":
  - (1) The period for submitting an oath or declaration in compliance with § 1.63;
  - (2) The period for submitting formal drawings set under § 1.85(c); and
  - (3) The period for making a deposit set under § 1.809(c).

[47 FR 41277, Sept. 17, 1982, effective Oct. 1, 1982; 49 FR 555, Jan. 4, 1984, effective Apr. 1, 1984; 49 FR 48416, Dec. 12, 1984, effective Feb. 11, 1985; 54 FR 29551, July 13, 1989, effective Aug. 20, 1989; para. (a) revised, 58 FR 54504, Oct. 22, 1993, effective Jan. 3, 1994; revised, 62 FR 53131, Oct. 10, 1997, effective Dec. 1, 1997; para. (c) added, 65 FR 54604, Sept. 8, 2000, effective Nov. 7, 2000; paras. (a)(2) and (b) revised, 65 FR 76756, Dec. 7, 2000, effective Feb. 5, 2001; para. (c) revised, 66 FR 21090, Apr. 27, 2001, effective May 29, 2001]

**§ 1.137 Revival of abandoned application, terminated reexamination proceeding, or lapsed patent.**

- (a) *Unavoidable.* If the delay in reply by applicant or patent owner was unavoidable, a petition may be filed pursuant to this paragraph to revive an abandoned application, a reexamination proceeding terminated under §§ 1.550(d) or 1.957(b) or (c), or a lapsed patent. A grantable petition pursuant to this paragraph must be accompanied by:
  - (1) The reply required to the outstanding Office action or notice, unless previously filed;
  - (2) The petition fee as set forth in § 1.17(I);

- (3) A showing to the satisfaction of the Commissioner that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to this paragraph was unavoidable; and
  - (4) Any terminal disclaimer (and fee as set forth in § 1.20(d)) required pursuant to paragraph (d) of this section.
- \* (b) *Unintentional*. If the delay in reply by applicant or patent owner was unintentional, a petition may be filed pursuant to this paragraph to revive an abandoned application, a reexamination proceeding terminated under §§ 1.550(d) or 1.957(b) or (c), or a lapsed patent. A grantable petition pursuant to this paragraph must be accompanied by:
- (1) The reply required to the outstanding Office action or notice, unless previously filed;
  - (2) The petition fee as set forth in § 1.17(m);
  - (3) A statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to this paragraph was unintentional. The Commissioner may require additional information where there is a question whether the delay was unintentional; and
  - (4) Any terminal disclaimer (and fee as set forth in § 1.20(d)) required pursuant to paragraph (d) of this section.
- (c) *Reply*. In a nonprovisional application abandoned for failure to prosecute, the required reply may be met by the filing of a continuing application. In a nonprovisional utility or plant application filed on or after June 8, 1995, and abandoned for failure to prosecute, the required reply may also be met by the filing of a request for continued examination in compliance with § 1.114. In an application or patent, abandoned or lapsed for failure to pay the issue fee or any portion thereof, the required reply must include payment of the issue fee or any outstanding balance. In an application, abandoned for failure to pay the publication fee, the required reply must include payment of the publication fee.
- (d) *Terminal disclaimer*.
- (1) Any petition to revive pursuant to this section in a design application must be accompanied by a terminal disclaimer and fee as set forth in § 1.321 dedicating to the public a terminal part of the term of any patent granted thereon equivalent to the period of abandonment of the application. Any petition to revive pursuant to this section in either a utility or plant application filed before June 8, 1995, must be accompanied by a terminal disclaimer and fee as set forth in § 1.321 dedicating to the public a terminal part of the term of any patent granted thereon equivalent to the lesser of:
    - (i) The period of abandonment of the application; or
    - (ii) The period extending beyond twenty years from the date on which the application for the patent was filed in the United States or, if the application contains a specific reference to an earlier filed application(s) under 35 U.S.C. 120, 121, or 365(c), from the date on which the earliest such application was filed.
  - (2) Any terminal disclaimer pursuant to paragraph (d)(1) of this section must also apply to any patent granted on a continuing utility or plant application filed before June 8, 1995, or a continuing design application, that contains a specific reference under 35 U.S.C. 120, 121, or 365(c) to the application for which revival is sought.

06

Under the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it displays a valid OMB control number.

**PETITION FOR REVIVAL OF AN APPLICATION FOR PATENT ABANDONED  
UNINTENTIONALLY UNDER 37 CFR 1.137(b)**

Docket Number (Optional)

First named inventor:

Application No.:

Art Unit:

Filed:

Examiner:

Title:

Attention: Office of Petitions  
Assistant Commissioner for Patents  
Box DAC  
Washington, D.C. 20231

NOTE: If information or assistance is needed in completing this form, please contact Petitions  
Information at (703) 305-9282.

The above-identified application became abandoned for failure to file a timely and proper reply to a  
notice or action by the United States Patent and Trademark Office. The date of abandonment is the day after the  
expiration date of the period set for reply in the Office notice or action plus an extensions of time  
actually obtained.

**APPLICANT HEREBY PETITIONS FOR REVIVAL OF THIS APPLICATION**

NOTE: A grantable petition requires the following items:

- (1) Petition fee;
- (2) Reply and/or issue fee;
- (3) Terminal disclaimer with disclaimer fee --required for all utility and plant applications  
filed before June 8, 1995; and for all design applications; and
- (4) Statement that the entire delay was unintentional.

**1. Petition fee**

☐ Small entity-fee \$ \_\_\_\_\_ (37 CFR 1.17(m)). Applicant claims small entity status. See 37 CFR 1.27.

☐ Other than small entity - fee \$ \_\_\_\_\_ (37 CFR 1.17(m))

**2. Reply and/or fee**

A. The reply and/or fee to the above-noted Office action in  
the form of \_\_\_\_\_ (identify type of reply):

- ☐ has been filed previously on \_\_\_\_\_  
☐ is enclosed herewith.

B. The issue fee of \$ \_\_\_\_\_.

- ☐ has been paid previously on \_\_\_\_\_  
☐ is enclosed herewith.

BC

Under the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it displays a valid OMB control number.

3. Terminal disclaimer with disclaimer fee

- ☐ Since this utility/plant application was filed on or after June 8, 1995, no terminal disclaimer is required.
- ☐ A terminal disclaimer (and disclaimer fee (37 CFR 1.20(d)) of \$ \_\_\_\_\_ for a small entity or \$ \_\_\_\_\_ for other than a small entity) disclaiming the required period of time is enclosed herewith (see PTO/SB/63).

4. STATEMENT: The entire delay in filing the required reply from the due date for the required reply until the filing of a grantable petition under 37 CFR 1.137(b) was unintentional. [NOTE. The United States Patent and Trademark Office may require additional information if there is a question as to whether either the abandonment or the delay in filing a petition under 37 CFR 1.137(b) was unintentional (MPEP 711.03(c), subsections (III)(C) and (D))].

**WARNING: Information on this form may become public. Credit card information should not be included on this form. Provide credit card information and authorization on PTO-2038.**

\_\_\_\_\_  
Date

\_\_\_\_\_  
Signature

Telephone  
Number: (\_\_\_\_) \_\_\_\_\_

\_\_\_\_\_  
Typed or printed name

\_\_\_\_\_  
Address

- Enclosures: ☐ Fee Payment
- ☐ Reply
- ☐ Terminal Disclaimer Form
- ☐ Additional sheets containing statements establishing unintentional delay
- ☐ Other: \_\_\_\_\_

CERTIFICATE OF MAILING OR TRANSMISSION [37 CFR 1.8(a)]

I hereby certify that this correspondence is being:

- ☐ deposited with the United States Postal Service on the date shown below with sufficient postage as first class mail in an envelope addressed to: Assistant Commissioner for Patents, Box DAC, Washington, D.C. 20231.
- ☐ transmitted by facsimile on the date shown below to the United States Patent and Trademark Office at (703) 308-6916.

\_\_\_\_\_  
Date

\_\_\_\_\_  
Signature

\_\_\_\_\_  
Type or printed name of person signing certificate



B3

Fee Code	37 CFR	Description	Fee	Small Entity Fee (If applicable)
<u>Patent Application Extension Fees</u>				
1251/2251	1.17(a)(1)	Extension for response within first month .....	110.00	55.00
1252/2252	1.17(a)(2)	Extension for response within second month .....	410.00	205.00
1253/2253	1.17(a)(3)	Extension for response within third month .....	930.00	465.00
1254/2254	1.17(a)(4)	Extension for response within fourth month .....	1,450.00	725.00
1255/2255	1.17(a)(5)	Extension for response within fifth month .....	1,970.00	985.00
<u>Patent Appeals/Interference Fees</u>				
1401/2401	1.17(b)	Notice of appeal .....	320.00	160.00
1402/2402	1.17(c)	Filing a brief in support of an appeal .....	320.00	160.00
1403/2403	1.17(d)	Request for oral hearing .....	280.00	140.00
<u>Patent Petition Fees</u>				
1460	1.17(h)	Petitions to the Commissioner, unless otherwise specified .....	130.00	
1451	1.17(j)	Petition to institute a public use proceeding .....	1,510.00	
1452/2452	1.17(l)	Petition to revive unavoidably abandoned application .....	110.00	55.00
1453/2453	1.17(m)	Petition to revive unintentionally abandoned application .....	1,300.00	650.00
1454	1.17(t)	Acceptance of an unintentionally delayed claim for priority .....	1,300.00	
1455	1.18(e)	Filing an application for patent term adjustment .....	200.00	
1456	1.18(f)	Request for reinstatement of term reduced .....	400.00	
1457	1.20(j)(1)	Extension of term of patent .....	1,120.00	
1458	1.20(j)(2)	Initial application for interim extension (see 37 CFR 1.790) .....	420.00	
1459	1.20(j)(3)	Subsequent application for interim extension (see 37 CFR 1.790) .....	220.00	
<u>PCT Fees - National Stage</u>				
1609/2609	1.492(a)(1)	IPEA - U.S. ....	720.00	360.00
1610/2610	1.492(a)(2)	ISA - U.S. ....	750.00	375.00
1611/2611	1.492(a)(3)	USPTO not ISA or IPEA .....	1,060.00	530.00
1612/2612	1.492(a)(4)	Claims meet PCT Article 33(1)-(4) - IPEA - U.S. ....	100.00	50.00
1613/2613	1.492(a)(5)	Filing with EPO or JPO search report .....	900.00	450.00
1614/2614	1.492(b)	Claims - extra independent (over three) .....	84.00	42.00
1615/2615	1.492(c)	Claims - extra total (over twenty) .....	18.00	9.00
1616/2616	1.492(d)	Claims - multiple dependent .....	280.00	140.00
1617/2617	1.492(e)	Oath or declaration after twenty or thirty months from priority date .....	130.00	65.00
1618	1.492(f)	English translation after twenty or thirty months from priority date .....	130.00	
<u>PCT Fees - International Stage</u>				
1601	1.445(a)(1)	Transmittal fee .....	240.00	
1602	1.445(a)(2)	PCT search fee - no U.S. application .....	700.00	
1603	1.445(a)(2)	PCT search - prior U.S. application .....	450.00	
1604	1.445(a)(3)	Supplemental search per additional invention .....	210.00	
1605	1.482(a)(1)	Preliminary examination fee - ISA was the U.S. ....	490.00	
1606	1.482(a)(1)	Preliminary examination fee - ISA not the U.S. ....	750.00	
1607	1.482(a)(2)	Additional invention - ISA was the U.S. ....	140.00	
1608	1.482(a)(2)	Additional invention - ISA not the U.S. ....	270.00	
<u>PCT Fees to WIPO or EPO</u>				
1702		Basic application fee (first thirty pages) .....	407.00*	
1703		Basic supplemental fee (for each page over thirty) .....	9.00*	
1705		Handling fee .....	146.00*	
1707		Designation fee per country .....	88.00*	
1704		International search (EPO) .....	936.00*	

\* WIPO and EPO fees subject to periodic change due to fluctuations in exchange rate. Refer to the *Official Gazette of the United States Patent and Trademark Office* for current amounts.

**PAYMENTS FROM FOREIGN COUNTRIES MUST BE PAYABLE AND IMMEDIATELY NEGOTIABLE IN THE UNITED STATES FOR THE FULL AMOUNT OF THE FEE REQUIRED**